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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|---------------------|
| 10/648,014 | 08/26/2003 | David Dennis Latham | 16210-US | 3470 |
| 30689 | 7590 | 10/26/2006 | EXAMINER | |
| DEERE & COMPANY ONE JOHN DEERE PLACE MOLINE, IL 61265 | | | | UNDERWOOD, DONALD W |
| | | ART UNIT | | PAPER NUMBER |
| | | | | 3652 |

DATE MAILED: 10/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/648,014 | LATHAM ET AL. | |
| | Examiner | Art Unit | |
| | Donald Underwood | 3652 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 11 August 2006.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-33 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application
- 6) Other: _____

DETAILED ACTION

The finality of the Office action mailed 03/20/06 is hereby withdrawn and the following action given. If further appeal is taken no appeal fee will be due. This action is being taken to reinstate a previous rejection and to set forth a new ground of rejection against claim 33.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-6, 8-18, 22-24, 28-30 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Apgar, et al. or Abe, et al. as applied and for the reasons set forth in paragraph 5 of the Office action mailed 07/15/05.

Claims 7, 19, 20, 21, 25, 26, 27, 31 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abe, et al. in view of Mandon as applied and for the reasons set forth in paragraph 6 of the Office action mailed 07/15/05.

Claims 1-6, 8-18, 22-24, 28-30 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Apgar, et al. or Abe, et al. in view of Gilstrap as applied and for the reasons set forth the final rejection mailed 03/20/06.

Claims 7, 19, 20, 21, 25-27, 31 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abe, et al. in view of Gilstrap as applied to claims 1, 16, 25 and 28 above above, and further in view of Mandon as applied in the final rejection mailed 03/20/06.

Claims 12, 21 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Apgar, et al. or Abe, et al. in view of newly cited WO 00/47833.

It would have been obvious to extend hydraulic hoses in the access hole in either primary reference in view of the teaching in WO 00/47833 (figure 2).

Claims 12, 21 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Apgar, et al. or Abe, et al. in view of Gilstrap as applied to claims 11, 20 and 32 above and further in view of WO 00/47833 as applied in the preceding paragraph.

Applicants' arguments are not persuasive since Gilstrap teaches using removable fasteners in lieu of permanent fasteners. Moreover, it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. See Nerwin v. Erlichman, 168 USPQ 177, 179.

As for applicants' position that Gilstrap is non-analogous art if this is indeed true then one must look to see if it addresses applicants' problem. It does since it teaches the use of removable fasteners to make a structure removeable.

Regarding applicants access hole 108a the primary references comprise a similar hole.

Regarding access hole 108, this hole as claimed does not define over the access hole noted in the preceding paragraph.

In summary the broad use of fasteners to attach a pin support is not patentable in view of the art of record previous court holdings regarding making an integral structure separate. The invention appears to be providing at least two pin supports, each for a different mast, which are interchangeable. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald Underwood whose telephone number is 571-272-6933. The examiner can normally be reached on Mon-Thursday 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Donald Underwood 10/25/06
Donald Underwood
Primary Examiner
Art Unit 3652

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